



A SUMMARY OF SELECTED BILLS TRULY AGREED TO AND FINALLY PASSED

by the

83rd General Assembly

First Regular Session





Prepared By

Office of State Courts Administrator

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INTRODUCTION

In their role of interpreting the statutes of Missouri, judges have a potential interest in almost any bill enacted. However, for this synopsis certain bills have been selected which appear to have a direct impact on the workload or procedures of the courts or which appear likely to come to the attention of the courts within a short time. The individual summaries cover the major points of the bills, but they do not address every issue in each bill and should not be read as a substitute for reading the bill in the context of the entire chapter in the statutes.

Except for the bills marked "vetoed", all bills included in this summary have been signed by the Governor. Signed bills become effective September 28, 1985, unless otherwise indicated.

For a copy of any bill, please direct your request to:

Senate Bill Room
State Capitol
Jefferson City, Missouri 65101 (Senate Bills)

House Post Office State Capitol Jefferson City, Missouri 65101 (House Bills)

Staff of the Office of State Courts Administrator are willing to assist you in obtaining further information about any of the legislation.

SENATE BILLS

SENATE BILLS

CCS NO. 2/HCS/SCS/SENATE BILLS NOS. 5, 269, 270, 271, 276, 277, AND 322 - OMNIBUS JUDICIAL ADMINISTRATION ACT

Repeals eighty sections and enacts fifty-three new sections related to the improved administration of justice.

Section A, effective September 28, 1985, in part allows a non-partisan judge to file a declaration of candidacy for election to succeed himself by certified mail; amends the claim provisions of Section 473.398 to include moneys expended by the Department of Health; requires local court rules to be adopted after consultation with the associate circuit judges of the circuit; and establishes a one year prior residency requirement for associate circuit judges elected with certain exceptions for persons appointed by the governor to fill a vacancy.

Revisions are made to Chapter 482 on small claims relating to the period of time in which four claims are allowed; the dismissal of petitions when more claims are filed than permitted; the petition and instructions to the defendant; cost of service and other process; disbursement of filing fees; service provisions; and the presentation of evidence by the plaintiff to establish a prima facie case before judgment.

Section A also authorizes the Supreme Court to order an extension of the temporary appointment of a court reporter beyond 30 days in any calendar year; increases certain transcript fees allowed court reporters; amends provisions relating to the payment of court reporter fees; and requires witnesses to attend civil trials from time to time, and from term to term until the case is disposed or the witness is discharged by the court.

Revises Chapter 491 relating to the form and procedures of summons and subpoenas; allows parties to request limitations on the costs of depositions based on certain criteria; amends Chapter 506 relating to service of process and default judgments; amends and expands administrative review procedures and requirements of Chapter 536; requires a witness in a criminal case once subpoenaed or recognized to appear before any division of the circuit court to attend until the case is disposed of or he is finally discharged; and amends provisions in Chapter 546 allowing the court to permit the jury to separate in all cases of misdemeanor or felony, except capital cases.

Four new sections are also created in Section A.

Section 2 allows the court, in any civil proceeding and after a hearing for such purpose, to assess costs for proceedings filed frivolously and in bad faith.

Section 3 allows costs involved in the execution and sale of property pursuant to judgment to be taxed as costs, with requirements established.

Section 4 requires notification to the circuit court of settlements in civil actions at least 2 full business days prior to the trial date, and in the absence of notification, the assessment of certain costs against one or more parties is to be included in the settlement agreement.

Section 5 allows interested persons as defined to file actions alleging that a child is suffering from medical neglect and establishes procedures for expeditious hearings.

Section B makes comprehensive revisions to Chapter 517 procedures applicable before associate circuit judges; revises Section 478.225 relating to the jurisdiction of associate circuit judges, including an increase of the jurisdictional limit to \$15,000; extends Chapter 506 to govern procedures in all divisions of the circuit court for all suits and proceedings of a civil nature, except small claims or municipal proceedings, unless specifically made applicable; and requires a record to be made of contested civil cases tried before associate circuit judges, except in cases where the petition claims damages not to exceed \$5,000, the right to trial de novo in these claims would still exist.

Chapter 482 is revised relating to counterclaims exceeding the jurisdictional limit of the small claims court and trial de novo procedures. A trial de novo in small claims cases shall be governed by the practice in trials before circuit judges except the case may be tried by a jury of not less than six persons, by agreement of the parties.

Makes technical changes to Chapters 66 (Charter Counties), 521 (Attachments), 535 (Landlord-Tenant Actions) and 546 (Criminal Judgments) relating to cases heard on the record and right to appeal.

The provisions of Section B become effective January 1, 1987. Any case filed prior to January 1, 1987 in the divisions presided over by an associate circuit judge shall be governed by the practice and procedure of causes heard by associate circuit judges as were in effect on the date the case was filed; including the right to trial de novo.

(See Attachment A for Detailed Summary - page 21)

CCS/HCS/SCS/SENATE BILLS NOS. 35, 17, 18, 84, 206, 259, AND 278 - TRANSPER TO MINORS AND PERSONAL CUSTODIAN LAWS, PROBATE FEES AND PROBATE CODE REVISIONS

Thirty-eight sections are repealed and forty-five new sections enacted relating to the probate code.

Sections 1 through 16 enact the Missouri Transfer to Minors Law repealing the Uniform Gifts to Minors Law. Additionally, numerous revisions are made to Chapter 473 (Decedent's Estates), 475 (Guardianship) and 483 (Court Fees). Minor revisions of Chapter 491 (Witnesses), 507 (Parties) and 632 RSMo (Comprehensive Psychiatric Services) are also enacted.

(See Attachment B for Detailed Summary - page 28)

HCS/SENATE BILL NO. 43 - SEAT BELTS

Enacts one new section related to the use of seat belts in motor vehicles, with penalty provisions and a termination date.

Requires all drivers and front seat passengers, with exceptions, to wear seat belts when riding in any car manufactured after January 1, 1968. Further enacts evidentiary requirements relating to the provision.

The bill establishes provisions which prohibit using the violation of the seat belt law as evidence of comparative negligence in certain actions to recover damages and also enacted are provisions which detail the circumstances in which violations of the seat belt law may be admitted to mitigate damages.

Effective July 1, 1987, a violator of this act is guilty of an infraction and subject to a fine not to exceed \$10.00. No points are to be assessed for a violation of this section. No court costs may be imposed if court costs have been assessed on any other charge arising from the same occurrence.

SS/SCS/SENATE BILL NO. 51 - LIVING WILLS

Creates ten new sections relating to the authorization of adult patients to direct the withholding or withdrawal of death - prolonging procedures, with penalty provisions.

Permits a "competent person" to execute a declaration directing the withholding or withdrawal of death-prolonging procedures. The declaration shall be in writing, dated and signed by the declarant. A declaration may be revoked at any time and in any manner by which the declarant is able to communicate this intent.

Creates new crimes relating to the withholding or withdrawal of life prolonging procedures.

A physician, licensed health care professional, medical care facility or employee or other person who in good faith and pursuant to customary medical standards causes or participates in withholding or withdrawal of death-prolonging procedures not otherwise unlawful, and pursuant to a declaration made in accordance with this act, shall not be found liable civilly or criminally or found to have committed an act of unprofessional conduct.

HCS/SCS/SENATE BILL NO. 54 - MEDICAL REPORT OF GUNSHOT WOUNDS

Enacts one new section relating to mandatory reporting of certain injuries by medical personnel, with penalty provisions.

Requires licensed medical personnel to report treatment given for a gunshot wound to local law enforcement agencies. Willfull failure to report gunshot injuries constitutes the offense of medical deception which is an infraction.

Persons making a report pursuant to this section are immune from any civil liability which might arise as a result of the report.

SENATE BILL NO. 154 - ACCREDITATION FOR INSTITUTIONS OFFERING TEACHER TRAINING

Repeals Section 210.167 RSMo (Supp. 1984) and enacts two new sections relating to certain teacher training programs, accreditation of law schools and provisions relating to home schooling.

Establishes standards and procedures for the evaluation of teacher training programs as well as accreditation criteria.

Allows the state board of education to accredit a graduate law school and any graduate of such an accredited law school to take the Missouri Bar Exam.

Extends for an additional year the provisions of Section 210.167 relating to local school districts and reports of educational neglect made to the Division of Family Services.

HCS/SCS/SENATE BILLS NOS. 156, 14, 149, 155, AND 181 - CRIME, CRIMINAL PROCEDURE AND CRIMINAL ACTIVITY FORFEITURE ACT

Repeals 15 sections and enacts forty-nine new sections.

Makes numerous revisions in the statutes relating to criminal activity and creates the "Criminal Activity Forfeiture Act".

Major provisions include several changes in the law concerning the illegal use, transporting, and obtaining of controlled substances; credit for time in cases involving probation and parole revocations; illegal possession of substances or articles while incarcerated in county correctional facilities; revisions in the law concerning adult abuse; creates the crimes of pharmacy robbery and library theft; revisions to the crime of property damage; includes the crime of attempted escape in the crime of escape from custody; makes revisions to the crime of leaving the scene of an accident; creates new provisions for criminal change of venues from Cole County; and the establishment of the Criminal Activity Forfeiture Act.

(See Attachment C for Detailed Summary - page 32)

SS/SENATE BILL NO. 256 - JACKSON COUNTY JURISDICTION

Divides the 16th Judicial Circuit, Jackson County into an eastern and western portion, for purposes of determining venue.

Venue for any action or court proceeding, civil or criminal, except those proceedings brought pursuant to Chapter 210 or 211, (juvenile matters) shall be filed in the appropriate portion of the circuit (Kansas City or Independence) according to the new venue requirements.

Actions against the county may be commenced in either of the two portions of the circuit. The presiding judge may provide by order for the transfer of a pending case from one portion of the circuit to the other upon agreement of all parties or to balance the cases pending within the two portions of the county.

Any action or court proceeding commenced or not yet determined prior to the effective date of this bill shall continue in that portion of the circuit unless a change of venue is obtained, the judge is disqualified, or the proceeding is transferred pursuant to court rules.

The effective date of this bill is January 2, 1986.

HCS/SENATE BILL NO. 264 - FRAUDULENTLY STOPPING PAYMENT OF A CHECK

Repeals Section 570.125 RSMo (Supp. 1984) and enacts two new sections relating to the payment of checks, with penalty provisions.

Requires the payee to notify by certified or registered mail the issuer of a check or draft of any nonpayment because of a stop payment order by the issuer. Additional penalties in the form of monetary damages are also enacted.

If the payee fails to pay the holder in cash within 30 days, a penalty of three times the amount owed or \$100.00 whichever is greater, is imposed for issuing payment on an account that lacks funds or credit to pay or for not having an account with the drawee. In no event is the penalty greater than \$500.00.

Penalties in a payable situation will only be assessed against the employer who issued the check, not against the employee.

The provisions do not apply in a bona fide dispute over the quality of goods sold or services rendered.

The bill also removes the term "sight draft" from the statute.

SS/SENATE BILL NO. 265 - CRIMINAL PROCEEDINGS INVOLVING MENTAL ILLNESS

Repeals Sections 195.500, 195.505, 195.510, 195.515, 195.520, 195.525, 195.530, 195.535, 195.540, 195.545, RSMo 1978 and Sections 552.020, 552.030, 552.040, 552.090, and 630.205, 631.005, 632.005 and 632.310 RSMo (Supp. 1984) and enacts twenty-four new sections relating to the detention of persons by the Department of Mental Health.

Makes numerous revisions to Chapter 552 relating to criminal proceedings involving mental illness. Revises Section 552.020 and who the court may appoint; the time, place and conditions under which the examination shall be conducted; and what the report of the examination shall include. Grants additional time to the state and the defendant to request a second examination, and revises procedures relating thereto. Revises procedures upon commitment to the Director of the Department of Mental Health if the Court finds the accused lacks mental illness to proceed. Six months after the Court orders the accused committed, the Court shall order an examination. Establishes procedures for the second examination, report, proceedings, and concurrent jurisdiction of the probate division.

Revises Section 552.030 relating to mental disease and defects, evidence of, who may be appointed, the time, place and conditions of the examination, admissibility of statements and the presumption of competency.

Revises Section 552.040 relating to acquittal based on mental disease or defect, and commitment to the Director of the Department of Mental Health for custody and care in a state mental health or retardation facility.

Establishes standards and procedures for conditional or unconditional release of persons acquitted because of mental disease or defect. Establishes follow-up, care and monitoring procedures for all persons who are conditionally released and provides for a trial release of up to 96 hours.

Section 630.205 is amended to provide that certain rights of persons receiving services from the Department of Mental Health are subrogated to the Department.

Enacts Sections 631.100 through 631.175 to authorize the Department of Mental Health to establish programs to accept persons for treatment and rehabilitation of drug and alcohol abuse on a voluntary or involuntary basis. Any adult person may file an application in the probate division of the circuit court for detention, treatment, and rehabilitation in an alcohol or drug abuse facility of a person presenting a likelihood of serious physical harm to himself or others as a result of alcohol or drug abuse, or both. Further provisions relating to the detention, treatment and rehabilitation of such persons, 96 hour commitments, 30 day commitments, and 90 day commitments are also enacted.

Provisions are made for the filing of petitions in the probate division for the involuntary detention of persons presenting an imminent likelihood of serious physical harm to himself or others. Procedures are established for an informal hearing on the issue of detention and subsequent hearings for continued detention. Service of petitions for detention shall be to the respondent, his attorney, the petitioner and his attorney, and shall take place within two days of the filing of the petition. Certain provisions in Chapter 632 relating to procedures, evaluations, admissions, detention, treatment, and rehabilitation shall apply to alcohol and drug abuse facilities.

SCS/SENATE BILL NO. 294 - APPOINTMENT OF RECEIVER TO MAINTAIN UTILITY SERVICE IN MULTI-TENANT DWELLINGS

One new section is created relating to the appointment of a receiver for the purpose of maintaining heat-related utility service in multi-tenant dwellings.

Provides that a gas or electrical corporation shall notify the tenants of an existing delinquency of payment and the tenants' rights to initiate receivership procedures.

Allows residents of master-metered multi-tenant dwellings or the gas or electric corporation providing heat-related utility service to petition the associate circuit court of the county in which the dwelling is located for the appointment of a receiver of rents for use and occupancy of the affected dwelling.

Provisions are enacted relating to the court issuing a show cause order; service of the order; hearing on the order and the petition; the appointment of the receiver; and time requirements for same.

Duties of the receiver are detailed and priority criteria for the disbursement of proceeds from the receivership are described.

Additional provisions are enacted relating to the dwelling owner's liability for all reasonable costs incurred by the receiver; circumstances which are cause to terminate the receivership; and the receiver's responsibility to report to the court the occurrence of the termination.

The utility corporation or the owner of the master-metered multitenant dwelling may petition the court for termination of the receivership if expected proceeds will not cover the cost of providing the heat-related service and the costs of the receivership. Also, a petition may be filed for a change of receiver if the existing receiver fails to promptly pay the petitioner appropriate amounts or fails to properly carry out other required receivership duties. Time requirements for holding a hearing on the petition and notice requirements of the hearing are established.

Any owner who collects or attempts to collect rent after the appointment of a receiver may be found, after due notice and hearing, to be in contempt of court.

SENATE BILL NO. 317 - WRONGFUL IMPRISONMENT

Repeals Section 537.600, RSMo 1978 and enacts two new sections to be known as Sections 537.600 and 537.605 relating to sovereign or governmental tort immunity and wrongful imprisonment.

Waives the immunity of a public entity from liability and suit for compensatory damages in cases of wrongful imprisonment.

Provisions are made for a person pardoned by the governor or released after a court finding of wrongful imprisonment to file, under certain conditions, an action against the state for pecuniary damages. All actions for wrongful imprisonment must be brought in the circuit court of Cole county within a specific period of time, and sets out provisions relating thereto.

NOTE: Section 537.600 RSMo was also amended by HCS/SB 323. The two versions are different.

HCS/SENATE BILL NO. 323 - COMMUNITY SERVICE/SOVEREIGN IMMUNITY

Repeals Section 211.181 RSMo (Supp. 1984) and Section 537.600 RSMo 1978 and enacts two new sections relating to immunity from suit where children are performing community service by order of the court and sovereign immunity of a public entity.

Section 211.181 RSMo is amended to provide that any person, organization or agency charged with the supervision of a child, or who benefits from any services performed by a child as a

result of an order of the juvenile court for such child to perform community service shall be immune from any suit if the cause of action arises from the supervision of the child's performance of service and if the cause of action does not arise from an intentional tort.

Section 537.600 RSMo is amended to make those areas in which sovereign immunity is waived for public entities an absolute waiver regardless of whether the public entity was acting in a governmental or proprietary capacity, and whether or not the public entity is covered by liability insurance for tort.

NOTE: Section 537.600 RSMo was also amended by Senate Bill 317. The two versions are different.

SS/SCS/SENATE BILL NO. 345 - DRAM SHOP LIABILITY

Creates one new section relating to dram shop liability.

Provides that dram shop liability is prohibited in Missouri; references specific appellate court cases, declaring that the holdings in these cases be abrogated in favor of prior judicial interpretation finding the consumption of alcoholic beverages, rather than the furnishing of alcoholic beverages, to be the proximate cause of injuries inflicted upon another by an intoxicated person; and enacts provisions relating to when an action may be brought by or on behalf of a person who has suffered personal injury or death against a person licensed to sell intoxicating liquor by the drink for consumption on the premises.

SENATE BILL NO. 352 - COUNTY OFFICIALS COMPENSATION FUND FEE

Repeals Section 67.134 RSMo (Supp. 1984) and enacts one new section related to the compensation of certain county officials.

Extends the collection of the additional \$4.00 in court costs in most criminal and civil cases until January 1, 1987. The bill also extends the salary increase for certain county officials provided by Senate Bill 601 in 1984 until January 1, 1987 or until such time as the legislature increases the compensation of those county officials.

HCS/SENATE BILL NO. 384 - BAIL REQUIREMENTS

Repeals Section 544.455 RSMo 1978 and enacts two new sections relating to persons charged with bailable offenses.

Amends conditions for determining bail for a person charged with a class A or B felony and who shall set bond and who may take bond. Provides for the sureties that may be required, and, in instances where a person is unable to acquire bail, the judge shall request an investigation by the board of probation and parole or some other authority designated by the judge. The findings of such an investigation are to be reviewed by the judge within 96 hours to determine the release conditions necessary to reasonably insure the later appearance of the person, protect members of the community and prevent the intimidation of witnesses.

Persons claiming to indigent must file an affidavit with the court which the courts may use in determining indigency. The affidavit is to be used in conjunction with any investigation authorized by this section.

The bill also provides that all secured bonds filed in the associate or circuit division of the circuit court by a bail bond agent, general bail bond agent, property bail bondsman or surety bail bond agent as defined in Section 374.700 RSMo shall be taxed \$10.00 or one-half of one percent of the amount of the bond, whichever is greater. The tax is to be paid by check or cash to the clerk of the court when the bond is filed and transmitted monthly to the Director of Revenue. These provisions do not apply to violations of municipal or county ordinances.

SENATE BILL NO. 388 - INTEREST ON CIRCUIT COURT REGISTRY FUNDS

Repeals Section 483.310 RSMo (Supp. 1984) and enacts one new section relating to the disposition of interest monies earned on funds deposited in circuit court registries.

Provides for the expanded use of interest monies earned on funds paid into the registry of the court to include the purchase of office equipment and other supplies for the court.

SENATE BILL NO. 405 - COUNTY COMMISSIONS

Repeals Section 49.230 RSMo (Supp. 1984) and enacts one new section relating to appeals from certain decisions of county commissions.

Appeals from the decisions, findings and orders of county commissions shall be conducted under the provisions of Chapter 536, RSMo.

HOUSE BILLS

HOUSE BILLS

HCS/HOUSE BILLS NOS. 194 AND 396 - COST OF INCARCERATING PRISONERS

Repeals Section 221.105 RSMo (Supp. 1984) relating to the cost of incarcerating certain prisoners and enacts one new section.

The bill increases the costs chargeable by law to the state by counties for the incarceration of prisoners from a maximum allowable per diem cost of \$8.00 per day per prisoner to \$14.00 per day per prisoner, plus the actual cost of all reasonable and necessary medical and dental services, as approved by the Commissioner of Administration. The costs chargeable include those incurred for a prisoner who is incarcerated in the county jail because of parole or probation revocation or violation and said parole or probation is a result of a violation of state statute.

The provisions of this act become effective January 1, 1986.

HOUSE BILL NO. 225 - MALICIOUS PROSECUTION

Repeals Sections 516.140 and 537.125 RSMo 1978 and enacts two new sections relating to malicious prosecution.

Allows merchants and their employees or agents to instigate criminal proceedings against persons believed to have stolen merchandise without criminal or civil liability or risk of malicious prosecution.

Requires actions for malicious prosecution or actions brought under Section 290.140 RSMo to be brought within two years.

SCS/HCS/HOUSE BILLS NOS. 227 AND 231 - WITNESSES IN CRIMINAL PROCEEDINGS

Enacts four new sections relating to witnesses in criminal proceedings.

Allows the attorney general or the prosecuting or circuit attorney, with the attorney general's approval, in any criminal proceeding to request in writing that the circuit court of the county in which the proceeding is held order a person appearing before a court of grand jury to testify, produce evidence, or provide other information if the person refuses on the grounds of self incrimination.

The judge, after a hearing with the attorney general or prosecuting or circuit attorney and the person refusing to testify and his counsel, and after reviewing specific considerations, may issue an order requiring the person's testimony. No testimony may be used against the witness in any proceeding or prosecution concerning that which he testified except for perjury, false swearing, or contempt committed pursuant to the order to testify.

The act provides for court action that may be taken should the witness refuse to comply with the order of the court to testify or produce evidence. Persons shall have the right to consult and have counsel present at every step of any criminal proceeding, including the presentation of evidence, questioning or examination before a grand jury. The presence of counsel is prohibited during the expression of the grand jurors' opinions or giving of their votes.

No person can refuse appearance before a grand jury because they are without counsel.

All proceedings before a grand jury, except secret deliberations and voting and consultations between witnesses and counsel shall be on the record and shall be recorded provided that an indictment follows.

HOUSE BILL NO. 285 - INTERSTATE DRIVER LICENSE COMPACT

Creates one new section to be known as the Driver License Compact.

Authorizes Missouri's entry into the Interstate Driver License Compact. Provides in part for the reciprocal reporting of convictions for traffic related offenses between the licensing authorities of member states and also for the reciprocal recognition of licenses to drive and eligibility therefore by considering applicants' compliance with motor vehicle laws of the other member states.

Requires any court or other agency of this state or any subdivision thereof, which takes any action suspending, revoking or otherwise limiting a license to drive or operate a motor vehicle to report such action and the basis thereof to the Department of Revenue.

HCS/HOUSE BILLS NOS. 288, 60 AND 51 - MOTOR VEHICLES

Repeals Sections 304.050 and 304.070 RSMo 1978 and Sections 302.160, 304.010, 304.155, and 304.157 RSMo (Supp. 1984) and enacts eleven new sections relating to motor vehicles.

Enacts provisions relating to the Department of Revenue's authority to suspend or revoke the operating privilege of individuals convicted in another state and provides for the authority of the county commission in third or fourth class counties and certain second class counties to establish weight limits on bridges, speed limits on certain highways, and the enforcement of such speed and weight limits.

Provides that when a peace officer or driver of a school bus witnesses a vehicle failing to comply with a law relating to the meeting or overtaking of a school bus, it is a rebuttable presumption that the person to whom the vehicle is registered committed the violation. If multiple owners are involved only one owner can be convicted and assessed court costs. No prosecution may proceed against a rental or leasing company unless they are served with prior written notice of the violation by registered mail, and the rental or leasing company has failed to provide a copy of the rental or lease agreement within 15 days of the notice. Any person who violates this section relating to school bus laws is guilty of a class A misdemeanor.

Expands the authority of law enforcement officers to authorize the removal of certain abandoned and unattended vehicles; enacts provisions relating to the liability of law enforcement officers or anyone having custody of the vehicle under the direction of the officer in the event that the vehicle is damaged; provides for a report to be made to the Department of Revenue by the law enforcement officer who authorized the tow; establishes specific requirements of the Department of Revenue regarding notification of the vehicle owner and provides for procedures for the owner to reclaim the vehicle. Also enacted are provisions for the creation and enforcement of a lien to recover costs related to towing and storage of the vehicle.

Moving violations committed on property owned or maintained by the state university and located within any of its campuses are subject to the general motor vehicle laws of this state. Also enacted are provisions relating to the authority of the board of curators of the state university to establish regulations to control vehicular traffic and penalty provisions for the same.

SCS/HOUSE BILL NO. 320 - INCREASES RECORDER OF DEED FEES/CIRCUIT CLERK PASSPORT FEES

Repeals Sections 59.319, 144.380 and 483.550, RSMo 1978 and Section 59.310 RSMo (Supp. 1984), and enacts four new sections related to fees collected by recorders of deeds and circuit clerk responsibilities for passport fees.

Increases certain recorder of deed fees set out in Section 59.310 RSMo; provides that 20% of a \$3.00 user fee shall be retained by the recorder and deposited in a records fund for record storage,

microfilming and preservation; and establishes new fees for the filing of notices of lien and release of liens.

The bill also provides that the circuit clerk is not accountable or responsible for or under a duty to collect fees to which are entitled for services performed in preparing or completing passport applications, which fees may be retained by the circuit clerk.

CCS/SCS/HCS/HOUSE BILL NO. 366, HCS/HOUSE BILL NO. 248, HCS/HOUSE BILL NO. 372, AND HOUSE BILL NO. 393 - PROTECTION OF CHILDREN

Repeals Sections 211.452, 211.457, 211.462, 211.472, 211.477, 211.482, 211.487, 211.492, 453.070, 453.080, 453.100, 546.260, 573.010, 573.050, RSMo 1978, and Sections 210.110, 210.160, 210.167, 211.393, 210.481, 211.442, 211.447, 211.453, 211.467, 453.015, 453.020, 453.030, 453.040, 453.050, 453.060, 453.065, 453.073 and 491.060 RSMo (Supp. 1984), and Section 211.381 as enacted by HCS/SB 581 of the 82nd General Assembly, 2nd Regular Session, and enacts 57 new sections relating to children and families.

Section A of the bill is a comprehensive revision of numerous statutes relating to salaries of certain juvenile court employees, abused or neglected children, termination of parental rights and adoption procedures. Also, the "Interstate Adoption Assistance Compact" is enacted and the crime of "trafficking in children" is created.

Section B amends the law relating to witnesses, and the admissibility of specific evidence involving children under the age of twelve; establishes the crime of promoting child pornography and provisions relating to the prosecution of the same. Section B also enacts the "Child Victim Witness Protection Law" and establishes procedures for reporting and attempting to locate missing persons.

Section A becomes effective September 28, 1985, and Section B became effective July 20, 1985.

(See Attachment D for new service of summons requirements under termination of parental rights provisions - page 37)

SCS/HOUSE BILL NO. 460 - POLICE SERVICES

Enacts one new section relating to police services.

Allows political subdivisions under certain conditions to enter into a contract or agreement with other political subdivisions for the providing of police services.

Officers who provide police services in another jurisdiction under this provision shall have the same powers to arrest and shall have the same immunity as if acting within their own jurisdiction.

HOUSE BILL NO. 488 - PUBLIC NUISANCE STRUCTURES

Section 195.130 RSMo 1978 is repealed and one new section is enacted related to the use of buildings or structures for the illegal use, keeping or sale of controlled substances.

Section 195.130 is amended to provide that any room, building, or structure used for the illegal use, keeping or selling of controlled substances shall be deemed a "public nuisance". A prosecutor in addition to any criminal prosecutions may prosecute a suit in equity to enjoin the public nuisance. The court may order the premises not be used or occupied for a period of up to one year if it is found that the owner of the structure knew or had reason to believe the premises was being used for the illegal use, keeping or selling of controlled substances.

SS/HOUSE BILL NO. 501 - MOTOR VEHICLE EQUIPMENT

Repeals Sections 544.045 RSMo 1978 and Section 301.066 RSMo (Supp. 1984) and enacts three new sections.

Section 544.045 is amended to authorize a member of the highway patrol to accept the deposit of a chauffeur's or operator's license in lieu of any other security for a person's appearance in court for a violation of a traffic law of this state.

A new provision is enacted making it a class C misdemeanor to operate a motor vehicle having certain vision-reducing material applied to windows which reduces visibility from within or without the vehicle.

Section 301.066 is amended to include an annual registration fee for shuttle buses.

SCS/HOUSE BILLS NOS. 657 & 337 - LEGAL MALPRACTICE INSURANCE

Repeals Section 383.010 RSMo 1978 and enacts six new sections relating to malpractice insurance.

Allows attorneys licensed in the State of Missouri to form a business entity for the purpose of providing malpractice insurance. Professional corporations formed for the practice of law may become members of any such entity.

Insurers providing legal malpractice insurance are to submit a confidential report to the director of insurance containing all claims for legal malpractice against any of its insured during the preceding twelve months. The final outcome of each claim, including any payments made, is to be filed with the director of insurance within six months of final disposition of the claim.

The director of insurance is to issue a public report to the Missouri Bar and Missouri Supreme Court containing a statistical summary of all data submitted. There is no liability or cause of action of any nature against any insurer's, agents or employees, or the director or his representatives, for any action taken pursuant to these sections. No information required in these sections shall be discoverable or admissable in any proceeding.

HOUSE BILL NO. 670 - HEALTH INSURANCE BENEFITS FOR PUBLIC EMPLOYEES

Section 104.515 RSMo (Supp. 1984) is repealed and Sections 67.210 and 104.515 are enacted relating to medical benefits for certain public employees.

This act allows political subdivisions which provide or pay for health insurance benefits for its employees to provide benefits for the employees' dependents.

This act also authorizes the Missouri State Employees' Retirement System to provide health insurance benefits to dependents of state employees at state expense upon the appropriation of any funds for that purpose.

If you have any questions, call the Missouri State Retirement System (314) 751-2342.

HOUSE BILL NO. 698 - CONTRACTING FOR EXTRADITION SERVICES

Section 548.243 RSMo (Supp. 1984) is repealed and one new section enacted relating to extradition.

If a warrant has been issued for the arrest of a person and the person is arrested out of state, the sheriff of the county where the warrant was issued is authorized to contract with an agent for the return of said person to this state, or the sheriff or deputy may return the person to this state.

HOUSE BILL NO. 711 - OUT OF STATE EMERGENCY PLACEMENT OF CHILDREN

Chapter 210 RSMo is amended by adding Section 210.622 relating to the emergency placement of certain children.

Allows the Division of Family Services to enter into an agreement with a similar agency in an adjoining state for the emergency placement of abused or neglected children across state lines without the prior approval required by the interstate compact. If placement extends beyond thirty days a request for approval pursuant to Section 210.620 RSMo shall be initiated.

SCS/HOUSE BILL NO. 715 - CRIME VICTIMS' COMPENSATION FUND

Repeals Sections 559.021, 595.010, 595.015, 595.020, 595.025, 595.030, and 595.035, RSMo (Supp. 1984), Section 595.045 as enacted by Senate Bill No. 497 of the Second Regular Session of the Eighty-First General Assembly, and Section 595.045 as enacted by House Bill No. 1226 of the Second Regular Session of the Eighty-Second General Assembly and enacts eight new sections relating to the crime victims' compensation fund.

The bill makes numerous revisions to the statutes governing claims made by victims eligible for compensation from the crime victims' compensation fund. The definition section is revised and provisions relating to determining the compensation, eligibility for the award, and reimburseable expenses and payment of all claims expended are amended.

Section 595.045 RSMo (Supp. 1984) is amended to increase from \$26.00 to \$36.00 the amount of the judgment entered against a defendant in favor of the state of Missouri for the Crime Victims' Compensation Fund.

Section 595.045 RSMo also provides that the court shall enter a Crime Victims' Compensation Judgment, "if a defendant is found guilty of violating a criminal law of this state except traffic offenses other than alcohol related traffic offenses and is:

- (1) Sentenced to a term of imprisonment, whether or not execution of the sentence is suspended; or
- (2) Sentenced to pay a fine; or
- (3) Given a suspended imposition of sentence, whether or not placed on probation; or
- (4) Given a period of detention as a condition of probation; or
- (5) Placed under the supervision of the state board of probation and parole or a county parole officer.

The clerk of the court is required to maintain records of all dispositions described in this section; all dispositions where a judgment of thirty-six dollars has been entered; all payments made to satisfy judgments for alcohol related traffic offenses; and any judgments or portion of a judgment entered but not collected. These records are subject to audit by the state auditor. Amounts collected on judgments for alcohol related traffic offenses are to be reported separately from other Crime Victims' Compensation amounts when such funds are transmitted to the state. The clerk shall report all delinquent payments from the preceding state fiscal year to the Department of Revenue by October 1 of each year.

The Department of Revenue shall maintain records of all funds received for the Crime Victims' Compensation Fund by each reporting court and separate records for funds received for alcohol related offenses. The annual Missouri Judicial Report prepared by the Office of State Courts Administrator shall contain fiscal year information concerning the number of Crime Victims' Compensation judgments entered.

SCS/HOUSE BILL NO. 790 - STATE RETIREMENT SYSTEM

Repeals Sections 21.564, 104.030, 104.140, 104.270, 104.310, 104.335, 104.340, 104.350, 104.352, 104.365, 104.366, 104.370, 104.380, 104.400, 104.410, 104.419, 104.460, 104.470, 104.515, 104.610, 104.615, and 104.620 RSMo (Supp. 1984) and enacts twenty-two new sections related to the Missouri State Retirement System.

Provides a long term disability benefit plan for state employees who are members of the Missouri State Employees Retirement System.

Employees with at least 6 months creditable service are entitled to \$15,000 life insurance (death benefits) coverage effective the first day of the month coinciding with or next attaining 6 months service, and provides a \$5,000 benefit for retirees.

The bill also provides for the coordination of medical care benefits and for semi-annual retirement benefit payments for recipients with benefits of less than \$30 monthly.

If you have any questions, call the Missouri State Retirement System (314) 751-2342.

HOUSE BILL NO. 814 - CHILD SUPPORT ENFORCEMENT

Repeals Section 454.400 RSMo (Supp. 1984) and enacts one new section relating to Child Support Enforcement.

Technical language change allowing Child Support Enforcement to be established within any division of the Department of Social Services. Previous language required the unit to be established within the Division of Family Services, Department of Social Services.

This bill contains an emergency clause and became effective June 26, 1985.

CCS/SCS/HS/HCS/HOUSE BILL NO. 825 - MOTOR VEHICLE FINANCIAL RESPONSIBILITY LAW

Repeals Sections 303.220 RSMo 1978, and Section 303.040 RSMo (Supp. 1984) and enacts Sections 303.024, 303.025, 303.026, 303.040, 303.041, 303.042, 303.043, 303.044, 303.046, 303.220, and 379.204 relating to the maintenance of financial responsibility by owners of motor vehicles.

The act establishes new requirements of registered motor vehicle owners and insurers issuing motor vehicle liability policies in this state. Provisions include, on part, issuance of an insurance identification card and the carrying of the same and responsibilities of the pictor of revenue to implement and enforce the provisions of this act.

Amended are sections relating to the reporting of an accident involving an uninsured motorist and the qualifying of certain religious denominations as self-insurers.

The act also provides for the suspension of the license or registration by the Department of Revenue pursuant to these provisions, and administrative review of the suspension and judicial review of the department's decision.

ATTACHMENTS

CONFERENCE COMMITTEE SUBSTITUTE NO. 2
FOR HOUSE COMMITTEE SUBSTITUTE
FOR SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILLS NOS. 5, 269, 270, 271, 276, 277 AND 322 OMNIBUS JUDICIAL ADMINISTRATION ACT

This bill makes numerous revisions in the law pertaining to the improved administration of justice. The bill is in two parts with part A having an effective date of September 28, 1985; and part B having an effective date of January 1, 1987.

Major provisions of Section A are as follows:

Section A (Effective September 28, 1985)

Sections 478.245, 478.320, 482.330, 482.345, 482.350, 482.355, 485.075, 485.100, 485.110, 485.150, 491.090, 491.100, 492.280, 492.590, 536.073, 545.370, and 546.230 RSMo 1978, and Sections 115.355, 473.398, 482.315, 482.340, 506.150, RSMo (Supp. 1984), are repealed and twenty-five new sections enacted in lieu thereof, to be known as Sections 115.355, 473.398, 478.245, 478.320, 482.315, 482.330, 482.340, 482.345, 482.350, 482.355, 485.075, 485.100, 485.150, 491.090, 491.100, 492.280, 492.590, 506.150, 536.073, 545.370, 546.230, and Sections 2,3,4, and 5.

Section 115.355 - Allows a judge seeking retention under the non-partisan court plan to file for retention by certified mail.

Section 473.398 - Technical language change which amends section to take into account the newly created Department of Health which was formerly the Division of Health, Department of Social Services.

Section 478.245(3) - Requires Local Circuit Court Rules to be adopted by a majority of the circuit judges after consultation with the associate circuit judges of the circuit.

Section 478.320 - Requires that an associate circuit judge reside in the county one year prior to the date of his election, except that a person who is appointed by the governor to fill a vacancy may file for election and be elected, notwithstanding the provisions of this subsection.

Section 482.315 - Allows a party in small claims actions transferred under Section 482.325 to amend the claim or counterclaim to an amount not to exceed the jurisdictional limit of the division of the circuit court to which the action was transferred.

Section 482.330 - Provides that no more than four small claims cases can be filed by a party during a "current calendar year". If the court finds that a party has filed one more claim than allowed, the court may dismiss the petition with prejudice. If the court finds that a party has filed two more claims than permitted, the court shall dismiss the petition with prejudice.

Section 482.340 - Amends the small claims petition with technical language changes and adds the statement that the plaintiff understands he is waiving his right to a jury trial on these issues in the small claims court. Amends the summons by including instructions to the defendant. Instructions indicate that "a pamphlet explaining the small claims court is enclosed".

Section 482.345 - Requires a person filing a small claims case to pay the cost of service and other process in advance. This section also requires that all filing fees be disbursed in accordance with Section 483.545 RSMo, i.e. 80% to the state, 20% to the county.

Section 482.350 - Allows service by mailing a copy of the summons and the complaint to the defendant at his last known address by certified mail, return receipt requested, delivery restricted to the addressee. Plaintiff may request personal service of summons without having to show that service by mail is not possible.

Section 482.355(2) - "If, upon the date set for the hearing of a small claims action, the defendant, having been served, fails to appear...the court, after presentation of evidence by the plaintiff to establish a prima facie case, may enter judgment for the amount claimed."

Section 485.075 - Provides that the continuation of a circuit judge's appointment of a temporary court reporter through more than 30 court days in any calendar year is not allowed unless so ordered by the Supreme Court.

Section 485.100 - Increases transcript fees paid to court reporters to \$1.00 per 25 line page for an original transcript and \$.35 per 25 line page for each copy. The payment of court reporter fees provided in this section shall be made by the state upon a voucher approved by the court.

Section 485.150 - Stenographer appointed in a homicide case is to receive sums as provided in Section 485.100.

Section 491.090 - Adds that a witness shall be required to attend trial from time to time, and from term to term, until the case is disposed of or until the witness is discharged by the court. The witness shall be liable to attachment for any default or failure to appear and adjudged to pay the costs. Costs shall not be allowed for any subsequent recognizance or subpoena for the witness.

Section 491.100 - Requires that such summons to the witness (subpoena) include such information as the names, addresses, and telephone numbers of the attorneys in the case and identify the attorney or party requesting the attendance of the witness or otherwise advise the witness of certain information relating to the time and place of his required appearance. Permits subpoenas to direct the production of objects. Upon application of the requesting party, the court may order that the witness shall appear from time to time until the case is disposed or otherwise excused by the court.

Section 492.280 - Upon order of the court, a subpoena may also command the production of objects on the taking of depositions.

Section 492.590 - Repeals specific deposition fees previously set out and enacts provisions which establish cost limitations to be considered by the court.

Section 506.150 - Allows service of process on certain defendants by mail, return receipt requested, delivery restricted to addressee. Establishes further procedures if service by mail is refused or receipt signed or delivery refused by an unauthorized person.

Section 536.073 - Allows discovery in certain cases filed before the Administrative Hearing Commission and requires the commission to adopt rules regarding the informal disposition of a contested case.

Section 545.370 - Whenever a witness in a criminal case has been once subpoenaed or recognized to appear before any division of the circuit court, he shall attend under the same as such witness until the case is disposed of or he is finally discharged by the court.

Section 546.230 - Allows the court in its discretion to permit juries to separate at any adjournment or recess of the court in all felony and misdemeanor cases except in capital cases. Consent of the prosecuting attorney and the defendant is not required.

Four new sections are also created which provide as follows:

Section 2 - Authorizes the court after a hearing to assess certain costs and reasonable expenses, including attorney's fees and compensation for time spent opposing a cause, against any party bringing an action that was frivolous and in bad faith. No liability is incurred on the part of any attorney representing a party in such a proceeding who in good faith acted at the specific direction of the client. Provision does not apply to specific conduct occuring prior to the effective date of this section, nor do the provisions apply to civil proceedings brought where a convicted person seeks a judicial review of conviction.

Section 3 - Authorizes the court to award certain costs, except attorney fees, involved in the execution and sale of property pursuant to a judgment as it deems reasonable and necessary. Creditors shall certify such expenses as true and accurate in an affidavit filed with the court and shall provide the court with copies of all receipts.

Section 4 - In addition to all other costs which are assessed in civil actions before the circuit courts of this state, whenever a civil action is settled and the circuit court in which such action was set for trial is not notified of such settlement at least two full business days prior to the trial date, all costs incurred by the court and the county in preparing for such trial which are not otherwise recoverable from the parties involved, shall be assessed against one or more of the parties as provided in the settlement agreement. All moneys received from costs assessed pursuant to this section shall be county revenue and shall be deposited in the county treasury.

Section 5 - Allows for "interested persons" as defined to bring an action in the circuit court alleging a child under eighteen years of age is suffering from "medical neglect". Such action shall be expedited in every manner practicable, including but not limited to giving such petition priority over all other matters on the court docket. Establishes hearing procedures and ruling requirements for these actions.

Major provisions of Section B of Senate Bill 5, et al are as follows:

Section B (Effective January 1, 1987)

Sections 66.060, 478.225, 482.225, 482.325, 482.365, 506.010, 512.190, 512.310, 514.030, 514.140, 514.150, 517.010, 517.020, 517.040, 517.050, 517.060, 517.080, 517.090, 517.230, 517.240, 517.250, 517.260, 517.270, 517.290, 517.300, 517.310, 517.320, 517.330, 517.340, 517.370, 517.380, 517.390, 517.460, 517.470, 517.480, 517.490, 517.510, 517.520, 517.570, 517.580, 517.610, 517.620, 517.630, 517.650, 517.660, 517.675, 517.680, 517.690, 517.700, 517.710, 517.770, 517.780, 517.910, 521.420, 535.020, 535.040, and 546.595, RSMo 1978, and Sections 512.180, 517.670, 535.110, and 535.160, RSMo (Supp. 1984), are repealed and twentyeight new sections enacted in lieu thereof, to be known as Sections 66.060, 478.225, 482.325, 482.365, 506.010, 512.180, 517.011, 517.021, 517.031, 517.041, 517.051, 517.061, 517.071, 517.081, 517.091, 517.101, 517.111, 517.121, 517.131, 517.132, 517.141, 517.151, 521,420, 535.020, 535.040, 535.110, 535.160, and 546.595.

Section 66.060 - Judgments tried under this section shall be tried with a record being made and may be appealed in like manner and within the same time as misdemeanor cases.

Section 478.225 - Revises jurisdiction of associate circuit judges:

478.225.1 - Associate circuit judge serving as judge of the probate division follows rules of civil procedure, except where specific statutes govern procedure in the probate division.

478.225.2 - Includes any equitable issues and relief incident thereto.

478.225.2(1) - Raises jurisdictional amount to \$15,000.

478.225.2(6) - Includes all cases arising under Chapters 213, 272, 302, 303, 388, 429, 430, 444, 482, 521, 533, 534, 535, or 577 RSMo.

478.225.3 - An associate circuit judge may hear and determine such additional cases or classes of cases that are assigned pursuant to Sections 478.240, 478.245, 517.081 RSMo or Article V.

Section 482.325 - Revises procedures if the amount of the counterclaim exceeds by itself the jurisdictional limit of the small claims court.

Section 482.365 - Incorporates the provisions of Section 512.180 to 512.320 RSMo into one subdivision relating to trial de novos in small claims cases. Small claim de novos shall be governed by the practice in trials before circuit judges, except that by agreement of the parties the case may be tried by a jury of not less than 6 persons. Costs shall be assessed as in other cases heard in circuit court.

Clerks of the small claims court shall provide forms necessary to assist judgment creditors where no application for trial de novo is pending.

Section 506.010 - Amends "Civil Code of Missouri" to govern the procedure in all divisions of the circuit court in all civil actions, except small claims court and municipal divisions unless specifically made applicable.

Section 512.180 - Eliminates trial de novo in all cases where claims for damages exceed five thousand dollars. Trials on contested civil cases over \$5,000 must be heard under procedures applicable before circuit judges, a record shall be kept, with appeals to the appropriate appellate court.

Chapter 517 is repealed and a new Chapter 517 is enacted with provisions as follows:

Section 517.011 - Provisions apply to practice and procedure in civil cases before associate circuit judges hearing cases under subdivisions (1), (2), (6), and (7) of subsection 2 of Section 478.225 (excludes municipal and those assigned).

Section 517.021 - Makes the rules of civil procedure applicable, except where otherwise provided.

Section 517.031 - Suits initiated by written petition containing facts; retains informal pleadings unless the court in its discretion requires formal proceedings.

Defendants shall file written counterclaims, filed no later than the return date of the summons; the pleadings of the counterclaim shall be informal, unless court directs otherwise; service of pleadings, except if petition is required. Time for filings may be extended, pleadings may be amended.

Section 517.041 - Service of process by summons with a copy of petition attached directed to the Sheriff or other proper person. Command to appear not less than 10 nor more than 30 days from date of service. Defendant is to be advised of pleadings required or permitted to be filed. If process is not timely served, the plaintiff may request further process or may dismiss as to any defendant.

Section 517.051 - Cases shall be tried upon the return date, or on a date to which the case has been continued.

Section 517.061 - Change of venue and change of judge shall be provided in the rules of civil procedure, with exceptions. Upon a change of judge, the case record shall remain in the division where filed.

Section 517.071 - Cases continued for 30 days upon request of either party made on or before return date. Cases may be continued to a date certain exceeding 30 days under certain conditions. Cases may be continued generally under certain conditions. Cases rescheduled upon 15 days written notice to all parties.

Section 517.081 - Cases certified to presiding judge - when, procedures.

Section 517.091 - Trial by jury deemed waived unless written demand filed not later than 5 days before summons return date. Jury composed of 12 jurors, unless parties agree on lesser number, but not less than 6.

Section 517.101 - Claim or counterclaim may be dismissed - when.

Section 517.111 - When case dismissed, or judgment by default or consent, judgment entered forthwith by judge. When case tried without a jury, judgment entered by judge within 30 days after submitted for final decision unless parties consent to longer period.

Section 517.121 - Judgment by consent may be entered in open court by all parties or by a written consent filed, signed by all parties or their attorneys.

Section 517.131 - Default judgments - procedures.

Section 517.132 - Instrument admitted in evidence.

Sections 517.141 through 517.151 - Record of judgments; transcript judgments; liens; revival of liens; essentially the same as current Sections 517.770 through 517.780.

Section 521.420 - Attachments - trial heard on the record.

Section 535.020 - Landlord tenant actions - trial heard on the record; practice and procedure provision in Missouri Rules of Civil Procedure, except where provided.

Section 535.110 - Appeals to Appellate Court.

Section 546.595 - If no appeal is filed, - certification by associate circuit judge to county treasurer, county clerk - collection of fines.

CONFERENCE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 35, 17, 18, 84, 206, 259 AND 278 - TRANSFERS TO MINORS AND PERSONAL CUSTODIAN LAWS; PROBATE FEES; PROBATE REVISIONS

Thirty-eight sections are repealed and forty-five new sections enacted relating to the probate code.

Sections 1 through 16 - Enacts the Missouri Transfer to Minors Law repealing the Uniform Gifts to Minors Law. The act sets out the provisions whereby property may be transferred to a minor by transferring the property to a custodian for the minor. It further allows the probate division to determine all matters pertaining to this law.

Section 473.070 - Amended to require any action to establish an interest in an estate by descent to be filed within six months of the date of first publication of letters. It further provides that the mother of unborn children have the right to file an action to establish an interest in an estate by descent on behalf of the unborn child within six months of the date of first publication of letters.

Section 473.090 - Amends law relating to refusals of letters. When the personal estate of the decedent does not exceed \$5,000 a creditor may apply for refusal of letters. Previously the amount was \$2,000.

Section 473.097 - A \$35 fee is to be paid to the clerk of the probate court upon the filing of an affidavit of distributees.

Section 473.117 - Adds that a nonresident personal representative submits personally to the jurisdiction of the court in all proceedings relating to the administration of the estate and to the performance of his fiduciary duties until discharged of those duties by the court.

Section 473.380 - When a claim on an estate is filed, the probate clerk shall immediately send a copy of the claim to the personal representative or his attorney.

Section 473.613 - Makes the procedures of this section subject to the provisions of Section 473.618.

Section 473.617 - Adds that the personal representative shall make prompt distribution of the assets of the estate after entry of any order of distribution per 473.618.

Section 473.618 (new section) - Provides that any judgment creditor of a distributee desiring notice of any partial and/or final distribution of the assets of the estate may at any time subsequent to the granting of letters testamentary or of administration file with the clerk a request for such notice. The clerk shall send a copy of the request to the personal representative or his attorney. The request shall specify the name and address of the judgment creditor, name of debtor-distributee and the identity of the estate. A separate request shall be filed for each judgment creditor of a distributee desiring notice and a fee of \$10.00 shall be charged for each request.

This section also provides that no partial or final distribution shall be made by a supervised or independent personal representative to a debtor-distributee after the serving and filing of a request until 20 days after the representative has sent, by certified or registered mail, a notice of distribution and the date when such distribution will be made addressed to each person whose name and address is on the request. The receipt issued by the post office showing that the letter was delivered by the personal representative to the post office constitutes proof of compliance. Any distribution made by the personal representative to debtor-distributee prior to time specified in the notice shall not discharge the personal representative against a garnishment, attachment or other judicial process.

Section 473.633 - Legacies shall bear interest at a rate equal to that allowed by law on money due upon order of the court.

Section 475.024 - A parent of a minor, by a properly executed power of attorney, may delegate to another individual, for a period not to exceed one year, any of his powers regarding the case or custody of the child. Previously the time period was three months.

Section 475.070 - Before appointing a guardian or conservator for a minor, notice of the petition must be served. Previously, conservator was omitted.

Section 475.075 - Adds that the petition for appointment of a guardian or conservator must state any person having power to act in a fiduciary capacity with respect to any of the respondent's financial resources.

Section 475.081 - Adds persons who are absent from this country and unable to return due to a physical or mental condition to those who may have letters of conservatorship granted for them.

Section 475.120 - No guardian shall have the authority to seek admission of his ward to a mental health or mental retardation facility for more than 30 days for any purpose without court order. Previously the time limit was seven days.

Section 475.121 - Adds that an application for admission to mental health facilities must be accompanied by a physician's statement setting forth the basis for continued admission, including a statement of the ward's current diagnosis, plan of care, treatment or habilitation and the probable duration of the admission.

Section also states that the court "may" appoint an attorney to represent the ward. Previously this section stated the court "shall" appoint an attorney.

Section 475.210 - Changes "claims for taxes" to "claims of any tax authority within the United States" in discussing those exempt from the six month limit on filing claims.

Section 475.340 - Removes reference to Section 475.175 which has been repealed.

Section 483.580 - The following fee changes were enacted:

Decedent's Estates

An additional fee of \$30.00 (previously \$25) for each 12 months or part thereof after the first 12 months an estate remains open.

Guardianship/Conservatorship (Minors)

Letters of Guardianship, each grant of letters - \$25.00 (previously \$15.00)

Letters of Conservatorship or Guardianship and Conservatorship, each grant of letters - \$60.00 (previously \$40.00)

Charge an additional \$25.00 (previously \$20.00) for each 12 months or part thereof after the first 12 months an estate remains open after the grant of letters.

Guardianship/Conservatorship (Incapacitated or Disabled)

Each grant of letters - \$75.00 (previously \$50.00)

Charge an additional \$30.00 (previously \$25) for each 12 months or part thereof after the first 12 months an estate remains open after the grant of letters.

Dispensing with Conservatorship, without the appointment of a conservator, where entire estate of a person over age 18, who has been adjudicated to be disabled, does not exceed \$10,000 - \$20.00 (previously \$10.00)

Refusals

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Spouse or minor ----- $15.00 (previously $7.50) Creditor ----- $30.00 (previously $15.00)
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Small Estates

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Affidavit to establish title of distributee $15,000 or less ----- $35.00 (previously $9.00)
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Admitting or Rejecting a Will to Probate

No letters issued ---- \$25.00 (previously \$15.00)

Copies

Certificate \$1.50 (previously \$.50)

Section 491.010 - Amends the qualifications for witnesses in civil cases. Statements made by a person who is now dead or shown to be incompetent shall not be excluded as hearsay provided that the judge determines that the person would have been a competent witness and that his alleged statement or statements would have been admissible if he were available to testify. The provisions of this section shall apply to all trials commenced after the effective date of this act.

Section 507.188 - If the next friend of guardian ad litem has money or property of minor in an amount of \$10,000 or less, the court may order the next friend or guardian ad litem to pay, deposit or deliver all or part of the money or property in accordance with 475.330.1 as well as provisions of Chapters 473 and 475. Previously, the money was paid directly to the minor or one or both of the minor's natural or adoptive parents.

Section 632.120 - An incapacitated person may be admitted to a mental health facility as an inpatient for up to 30 days after admission for evaluation and treatment. Previously the time limit was seven days.

HOUSE CONFERENCE SUBCOMMITTEE FOR SENATE COMMITTEE SUBSTITUTE FOR SENATE BILLS NOS. 156, 14, 149, 155, AND 181 - CRIME, CRIMINAL PROCEDURE AND CRIMINAL ACTIVITY FORFEITURE ACT

Repeals Sections 195.130, 195.145, 195.170, 491.015, 491.020, 569.100, 569.110, 569.120, 575.200, and 575.210 RSMo 1978, and Sections 195.200, 217.690, 217.765, 455.010, 455.020, 455.030, 455.050, 455.080, 455.085, 544.216, 566.030, 570.010 and 577.060, RSMo (Supp. 1984) and enacts forty-nine new sections relating to crime, criminal procedure and civil forfeiture for criminal activity.

Section 195.130 - Allows the court to close structures deemed a "public nuisance" for up to one year because of the illegal use, keeping or selling of controlled substances.

Section 195.145 - Amends section relating to forfeiture of a vehicle, vessel or aircraft to include certain rights of parties other than the defendant, who have an interest in the property.

Section 195.170 - Redefines the crime of fraudulently attempting to obtain a controlled substance and makes violation of this section a class D felony.

Section 195.200 - Amends punishment provision to require a first time offender to participate in a drug education program in lieu of or in addition to any punishment imposed.

Section 217.690 - The Board of Probation and Parole may in its discretion release on parole such person, except as otherwise prohibited by law.

Section 217.765 - Authorizes the court revoking the probation or parole of a defendant to allow credit for all or part of the time on probation or parole.

Section 221. 110 - Creates a crime to knowingly deliver, attempt to deliver, have in possession, deposit or conceal any controlled substances, alcoholic type beverages, any prohibited item of personal property, gun, knife, or weapon in or about the premises of a county correctional facility.

ADULT ABUSE ACT

Sections 455.010, 455.020, 455.030, 455.050, 455.080, and 455.085 relating to adult abuse cases are revised.

Section 455.010 - Broadens definition of "Abuse" to include: assault, battery, coercion, harrassment, sexual assault and unlawful imprisonment; as defined in this section.

Section 455.020 - Makes any order of protection issued under the provisions of Chapter 455 RSMo effective throughout the state in all cities and counties.

Section 455.030 - A petitioner seeking a protection order is only required to reveal an address or residence to the judge in camera for purposes of determining jurisdiction. A mailing address may be required unless such disclosure would prove dangerous to the applicant or their family.

Section 455.050 - In part, allows the petitioner in addition to what may now be requested under the law, to request and the court to order the respondent to make or continue to make rent or mortgage payments; order the respondent to give the petitioner specified personal property; prohibit respondent from disposing of mutually owned or leased property; require respondent to participate in a court approved counseling program; and order respondent to pay a reasonable fee for housing being provided to the petitioner by a shelter for victims of domestic violence. Also, in making awards of custody, placement of the child with the nonabusive parent is presumed in the best interest of the child unless there is evidence that both parents have been abusive. Visitation rights of the non-custodial parent may be denied by the court if no visitation can be arranged that would sufficiently protect the custodial parent from further abuse.

Section 455.080 - Requires law enforcement agencies to give the same priority to calls involving abuse or violation of protection orders as other calls, establishes criteria when immediate police response is required, and requires the police to inform victims of the availabilty of shelters.

Section 455.085 - Enpowers law enforcement officers to arrest a person against whom an order of protection has been ordered who fails to surrender custody of minor children pursuant to the order.

Violation of a full order of protection or an ex parte order of protection with regard to abuse, child custody, or entrance upon the premises of the petitioner is a class A misdemeanor. For purposes of this subsection in addition to actual service, a

party is deemed to have notice of an order of protection if presented with a copy of the order by a law enforcement officer responding to a call. Criminal prosecution is allowed for crimes arising out of the incident in which the protection order is violated.

OTHER PROVISIONS

Section 491.015 - Amends provisions relating to inadmissability of evidence to include "...prosecutions under Chapter 566, or prosecutions related to sexual conduct in Chapter 568..." Exception to inadmissability provision is also amended.

Section 544.216 - Amends "Powers of arrests" provisions of this section to include members of Missouri State Highway Patrol.

Section 565.065 - Creates the crime of "unlawful endangerment of another", which is a class C felony, if an individual protects an enterprise for the production of a controlled substance by creating, setting up, building, erecting or using any device or weapon which causes or intends to cause injury to a person.

Section 569.025 - Creates and defines the crime of "pharmacy robbery in the first degree" which is a class A felony.

Section 569.035 - Creates and defines the crime of "pharmacy robbery in the second degree" which is a class B felony.

Section 569.085 - Creates and defines the crime of "unlawful endangerment of property", which is a class C felony.

Section 569.100 - Lowers the amounts of damages necessary to commit the crime of property damage in the first degree from \$5,000 to \$750.00 in cases where the person knowingly damages the property and from \$5,000 to \$1,000 in cases where the damages were the result of an attempt to defraud an insurer.

Section 569.110 is repealed and Section 569.120 is revised changing the crime of property damage in the third degree to property damage in the second degree, a class B misdemeanor.

Section 579.010 - Deletes reference to cable television services from definition.

Sections 570.200 through 570.215 establish the crime of library theft which is a class C felony if involving \$150.00 or more, otherwise it is a class C misdemeanor. Enacts provisions relating to librarian's authority to detain persons.

Sections 575.200 and 575.210 - Adds attempted escape from custody to these provisions, as a class D felony.

Section 577.060 - Makes leaving the scene of an accident a class A misdemeanor unless the accident results in physical injury to another person, is in excess of \$1,000 in property damage, or the defendant has a previous conviction for leaving the scene of an accident, in which case it is a class D felony.

Section 2 - Creates a new section which establishes procedures for change of venues in criminal cases in Cole County, notwithstanding Supreme Court Rule 32.03.

Section 3 - Makes it a class B felony to possess or use a metalpenetrating bullet during the commission of a crime.

CRIMINAL ACTIVITY FORFEITURE ACT

Sections 4 through 17 establish the "Criminal Activity Forfeiture Act" or "C.A.F.A" which provides that property used, or intended for use in the course of, derived from or realized through criminal activity is subject to civil forfeiture.

Creates a definition section; provides for procedures to initiate a forfeiture proceeding including how to institute, contents of the petition, review of petition by the court, service on interested parties, and how to effect seizure.

Provides for rights of interested parties not named in the petition to become a party to the action and enacts provisions relating to possession of property by posting bond, sale of the property and the courts authority to make any other disposition of the property.

Section 8 - Allows any party to request a jury trial and bring one motion to dismiss. Motions to be ruled on within 10 days.

Section 9 - Provides for the rights of an "innocent party" with an interest in property subject to forfeiture.

Section 10 - Establishes procedures for protecting the rights of innocent parties by allowing the court to order the disposition of property following judgment of forfeiture. Disposition alternatives are provided.

Section 12 - Relates to title of the state to forfeited property upon entry of the final judgment. Also enacted are provisions relating to the initiating of court action if the property subject to forfeiture is rendered unavailable for forfeiture.

Section 13 - Creates a statute of limitations concerning the commencement of any action under this section.

Section 14 - Provisions of this act do not preclude any other civil remedies allowed by law. Remedies are supplemental, not mutually exclusive.

Section 15 - Authorizes the attorney general to enter into reciprocal agreements with other states which have similar provisions for the forfeiture of seized property and provides for the recognition by courts of this state of judgments rendered by other states with similar provisions.

Section 16 - Allows the investigating agency in any proceeding authorized in this act to file with the recorder of deeds of any county a C.A.F.A. lien notice. Contents, procedures, effect and notice requirements are addressed. No filing fee or other charge shall be required as a condition for filing the lien notice. Section also provides for action which may be taken in conjunction with any civil proceedings, responsibilities of a trustee who acquires knowledge that a proceeding has been initiated against a person for whom he holds legal or record title to real property, and the liability of a trustee.

Section 17 - Provides for term of lien notice, renewal of the notice, release of the lien notice and termination of the lien notice. Courts responsibility to set a hearing date and the time allowed to do the same, service of the order setting a date for hearing, hearing procedure, and conditions which the court shall immediately enter an order releasing the lien notice are also addressed.

ADDITIONAL PROVISIONS OF SENATE BILL 156 ET AL

Section 18 - Establishes the crime of theft of cable television service.

Section 19 - Authorizes law enforcement officials of a county or municipality who are certified pursuant to Chapter 590 RSMo to respond to "emergency situations" outside the geographical boundaries of their authority. Authority must be authorized by ordinance.

Section 20 - Allows counties and municipalities to cooperate with one another in the formation of "major case squads" for the investigation of certain crimes.

Section 21 - Creates a system of tracking the location of persons released from the Department of Corrections on probation or parole. Said persons are required to report address changes to the board of probation and parole and to register with the chief law enforcement officer if in a new county of residence.

CONFERENCE COMMITTEE SUBSTITUTE FOR SENATE COMMITTEE SUBSTITUTE FOR HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 366, HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 248, HOUSE COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 372 AND HOUSE BILL NO. 393 - PROTECTION OF CHILDREN

Section 211.453 - Requires personal service of summons in proceedings initiated under Sections 211.440 to 211.487 dealing with the termination of parental rights in the manner prescribed in Section 506.150 RSMo. If personal service cannot be made as prescribed in Section 506.150 RSMo, and is not waived, then the service is to be by mail or publication as provided in Section 506.160 RSMo.

Persons to be summoned and served with a copy of the petition shall include:

- the parent of the child, including a putative father who has acknowledged the child as his own by affirmatively asserting his paternity;
- 2) the guardian of the person of the child;
- 3) the person, agency or organization having custody of the child;
- 4) the foster parent, relative or other person with whom the child has been placed; and
- 5) any other person the court deems necessary.

The court shall not require service in the case of a parent whose identity is unknown and cannot be ascertained, or cannot be located. Any person required to receive summons may waive appearance or service of summons.